

MORRISON & FOERSTER LLP  
250 West 55<sup>th</sup> Street  
New York, New York 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900  
Norman S. Rosenbaum  
Jordan A. Wishnew  
Jessica J. Arett

*Counsel for the ResCap Borrower Claims Trust*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

In re: ) Case No. 12-12020 (MG)  
 )  
RESIDENTIAL CAPITAL, LLC, et al., ) Chapter 11  
 )  
Debtors. ) Jointly Administered  
 )

---

**THE RESCAP BORROWER CLAIMS TRUST'S COUNTER-  
DESIGNATION OF ITEMS FOR RECORD ON APPEAL**

Pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure and Rule 8007-1 of the Local Bankruptcy Rules for the Southern District of New York, the ResCap Borrower Claims Trust (the “**Borrower Trust**”), established pursuant to the terms of the *Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC, et al. and the Official Committee of Unsecured Creditors* [Docket No. 6030] (the “**Plan**”)<sup>1</sup> in the above-captioned Chapter 11 cases (the “**Chapter 11 Cases**”), hereby submits the following counter-designation of additional items to be included in the record on appeal in connection with the Notice of Appeal [Docket No. 9189] filed by appellants Philip Emiabata and Sylvia Emiabata (the “**Appellants**”), from the *Order Sustaining ResCap Borrower Claims Trust's Objection to Claim Nos. 3910 and 4085 Filed by*

---

<sup>1</sup> The Plan was confirmed by order of the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”) dated December 11, 2013 [Docket No. 6065] and the Plan’s effective date occurred on December 17, 2013. The Plan provides for the creation and implementation of the Borrower Trust. See Plan, Art. IV.F. The Plan further provides that the Borrower Claims Trustee is deemed the representative of the Debtors’ estates for the purpose of prosecuting objections to borrower claims, see Plan, Art. IV.S.

*Philip Emiabata and Sylvia Emiabata* [Docket No. 9104] which was entered by the Bankruptcy Court on September 3, 2015.<sup>2</sup> The Bankruptcy Court entered its *Memorandum Opinion and Order Sustaining the ResCap Borrower Claims Trust's Objection to Claim Nos. 3910 and 4085 Filed by Philip and Sylvia Emiabata* [Docket No. 9111] on September 4, 2015 explaining the Bankruptcy Court's decision.

The Borrower Trust designates the following additional items to be included in the record on appeal.<sup>3</sup>

#### A. Pleadings

Docket No.	Description
2093	Order Extending Deadline for Filing Proofs of Claim
3294	Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 1009, 3007 and 9019(b) Approving (I) Claim Objection Procedures, (II) Borrower Claim Procedures, (III) Settlement Procedures, and (IV) Schedule Amendment Procedures
6065	Order Confirming Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC, <i>et al.</i> and the Official Committee of Unsecured Creditors
6137	Notice of Entry of Confirmation Order Confirming the Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC, <i>et al.</i> and the Official Committee of Unsecured Creditors and Occurrence of the Effective Date

<sup>2</sup> For the avoidance of doubt, with regard to any pleadings and/or exhibit lists designated by the Borrower Trust, the Borrower Trust also designates any and all exhibits filed with, attached to, or otherwise referenced in such documents. For the further avoidance of doubt, the Borrower Trust designates all items designated by Appellants in Docket No. 9179, Case No. 12-12020 (MG) and all exhibits filed with, attached to, or otherwise referenced in such documents.

<sup>3</sup> It is unclear whether the Designation of Items to Be Included in the Record of Appeal and Statement of Issues, filed by the Appellants at Docket No. 9179 [District Docket No. 3], is intended to address their amended notice of appeal, filed at Docket No. 9189. The Appellants originally appealed the Bankruptcy Court's *Order Denying Expedited Motion for Conference/Clarity of Issue of Discovery and Interrogatories; and Adjournment of Omnibus Objection Hearing Filed by Philip and Sylvia Emiabata* [Docket. No. 9066] (the "First Order"). Given the Court's September 29, 2015 order (see 15-cv-7139 (VEC) District Docket No. 5) stating that it intended to consider the case to include the Appellants' appeal of the Bankruptcy Court's *Order Sustaining ResCap Borrower Claims Trust's Objection to Claim Nos. 3910 and 4085 Filed By Philip and Sylvia Emiabata* [Docket No. 9104] (the "Second Order"), the Borrower Trust designates all documents that pertain to both the First Order and Second Order.

Docket No.	Description
8042	ResCap Borrower Claims Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims)
8400	Order signed on 4/1/2015 Granting ResCap Borrower Claims Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims) as to Certain Claims
8568	Revised Notice of the ResCap Borrower Claims Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims) Solely as it Relates to the Claims Filed by Philip Emiabata and Sylvia Emiabata (Claim Nos. 3910 and 4085)
8810	ResCap Borrower Claims Trust's Supplemental Objection and Reply in Support of its Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims) as to Claim Nos. 3910 and 4085
8854 <sup>4</sup>	Order Denying Discovery Motions Filed by Philip and Sylvia Emiabata
8911	Notice of Adjournment on the ResCap Borrower Claims Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims) Solely as it Relates to the Claims Filed by Philip Emiabata and Sylvia Emiabata (Clam Nos. 3910 and 4085) and the ResCap Borrower Claims Trust's Supplemental Objection and Reply in Support of Its Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims) as to Claim Nos. 3910 and 4085 to September 3, 2015 at 10:00 a.m. (Prevailing Eastern Time)
8946	Creditors Philip Emiabata and Sylvia Emiabata's Motion to Extend the Date by Which Creditors Will Respond to ResCap Borrower Claims Trust's Supplemental Objection and Reply in Support of its Eighty-Second Omnibus Objection Relating to Claim Nos. 3910 and 4085
9069	ResCap Borrower Claims Trust's Reply in Support of Its Eighty-Second Omnibus Objection to Claims (No-Liability Borrower Claims) as to Claim Nos. 3910 and 4085; Hearing to be Held on September 3, 2015 at 10:00 a.m. (ET)
9104	Order Sustaining ResCap Borrower Claims Trust's Objection to Claim Nos. 3910 and 4085 Filed By Philip and Sylvia Emiabata
9111	Memorandum Opinion and Order Sustaining the ResCap Borrower Claims Trust's Objection to Claim Nos. 3910 and 4085 Filed by Philip and Sylvia Emiabata
9181	Notice to Philip Emiabata and Sylvia Emiabata re: Fee Due on Motion
9200	Letter to Philip Emiabata and Sylvia Emiabata re: Motion for Relief From Stay

---

<sup>4</sup> Appellants designated this item as Docket No. 8853 which was superseded by Docket No. 8854.

**B. Other**

Docket No.	Description
9164	Transcript of Hearing held on September 3, 2015 at 10:05 a.m. (Prevailing Eastern Time)
N/A	Proof of Claim Number 3910 Filed by Philip Emiabata and Sylvia Emiabata on November 9, 2012
N.A	Proof of Claim Number 4085 Filed by Philip Emiabata and Sylvia Emiabata on November 9, 2012

Dated: October 5, 2015  
New York, New York

/s/ Norman S. Rosenbaum

Norman S. Rosenbaum  
Jordan A. Wishnew  
Jessica J. Arett  
MORRISON & FOERSTER LLP  
250 West 55<sup>th</sup> Street  
New York, New York 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900

*Counsel for the ResCap Borrower Claims  
Trust*